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2021-08-23 12:06:20
PAAB

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2021-025-10010R

Parcel No. 1310300006

Nicholas Curnes,

Appellant,

vs.

Dallas County Board of Review,

Appellee.

Introduction

This appeal came on for written consideration by the Property Assessment Appeal Board (PAAB) on August 9, 2021. Nicholas Curnes was self-represented. Dallas County Assessor Steve Helm represented the Board of Review.

Nicholas and Michelle Curnes (Curnes) own a property located at 33048 Old Highway 6, Redfield, Iowa. The property's January 1, 2021 assessment was set at $411,860, allocated as $92,500 in land value and $319,360 in dwelling value. (Ex. A).

Curnes petitioned the Board of Review claiming the property was assessed for more than the value authorized by law and it was misclassified as residential under Iowa Code section 441.37(1)(a)(1)(b-c) (2021). (Ex. C). The Board of Review denied the petition. (Ex. B).

Curnes appealed to PAAB reasserting his claim the property is misclassified. He believes the property should be classified agricultural.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2021). PAAB is an agency and the provisions of the Administrative Procedure

Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a).

Findings of Fact

Curnes acquired the subject 10.03-acre site in 2017. The subject parcel was split from a larger parcel. Curnes built a one-story home with 1488 square feet of gross living area and a full walk-out basement with 860 square feet of living quarters-quality finish. There is a three-car attached garage, two open porches, and a 528 square-foot concrete patio. The dwelling is listed in normal condition with high quality construction (Grade 2-5). (Ex. A). According to the property record card, the property's classification was changed from agricultural to residential in 2018; at which point the subject dwelling was partially constructed.

Curnes asserts the subject property should be classified agricultural. Curnes' statement of his claim is:

> Part of Iowa law 23.26(1)[1] defines a farm as raising or harvesting any agricultural or horticultural commodity. There is no mention in the code of a size requirement. Classifying this property as residential places an unfair burden upon us especially since the house valuation was increased $48,000. This property produces hay and it is also in a USDA monarch conservation program. I pay farm income taxes and it is USDA farm #8043. (Appeal from Board of Review Action).

Curnes did not submit any additional evidence to PAAB. However, the Board of Review submitted his petition to the local board and the documents he supplied for his

[1] Curnes' reference appears to be to Iowa Administrative Code Rule 871-23.26(1), which defines a farm and agricultural labor under Iowa Workforce Development's administrative rules.

protest consisting of a USDA letter and attachments, a Conservation Program Contract, and an appraisal of the subject property dated August 15, 2018. (Ex. C).

The USDA letter confirms the subject property has an assigned farm number and indicates up to 9.95-acres are considered usable farmland. It also includes an aerial photograph that, although undated, appears to predate construction of the dwelling. While use may have admittedly changed since this photograph was taken, there is no apparent area that is being used for a hay crop or other obvious agricultural purposes.

The Conservation Program Contract dated July 21, 2020, demonstrates Curnes' participation in a conservation program dedicated to improving working lands for monarch butterflies. The contract provides for annual payments totaling $17,945 to Curnes from 2020 to 2024, depending upon the availability of funding, in exchange for implementing and maintaining certain conservation practices. No other information about this program or its potential restrictions on uses of the subject property was provided. Importantly, the record also includes no evidence the required conservation practices have been implemented.

An appraisal was also submitted with an effective date of August 2018. We note the date of value is almost three years prior to the 2021 assessment at issue and therefore may not represent the current market value of the subject property. Moreover, it does not appear Curnes has raised a market value claim before PAAB.

The Board of Review submitted a written statement of its position as follows:

> No evidence suggests the primary use of the subject property is agricultural. The subject property should be classified residential as the home has a greater value than any other use or activity. If the property was listed on the market, buyers would recognize it as a residential property. It would attract a higher sales price because of the home, not for Curnes's conservation pursuits. We do not dispute that the property owner is receiving an annual payment for the conservation of a monarch butterfly habitat. However, we do not believe this is the primary use, but rather, an incidental use of the subject property. (Ex. D).

Analysis & Conclusions of Law

Curnes asserts the subject property is misclassified as residential and should instead be classified agricultural.

Although Curnes cites to Iowa Workforce Development rule 871-23.26(1) defining "farm," assessment classifications for property tax purposes are to be determined pursuant to rules adopted by the Iowa Department of Revenue (IDR). Iowa assessors are to classify and value property following the provisions of the Iowa Code and administrative rules adopted by (IDR) and must also rely on other directives or manuals IDR issues. Iowa Code §§ 441.17(4), 441.21(1)(h). IDR has promulgated rules for the classification and valuation of real estate. *See* Iowa Admin. Code r. 701-71.1. The assessor shall classify property according to its present use. *Id*. Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id*. Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id*. There can be only one classification per property, except as provided for in paragraph 71.1(5) "b". *Id*. The determination of a property's classification "is to be decided on the basis of its primary use." *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). The assessment is determined as of January 1 of the year of the assessment. §§ 428.4, 441.46; Iowa Admin. Code R. 701-71.2. Curnes bears the burden to prove the property is misclassified. § 441.21(3). *See also Miller v. Property Assessment Appeal Bd*., 2019 WL 3714977 at *2 (Iowa Ct. App. Aug. 7, 2019).

Residential property "shall include all land and buildings which are primarily used or intended for human habitation." R. 701-71.1(4). This includes the dwelling as well as structures used in conjunction with the dwelling, such as garages and sheds. *Id*.

Conversely, agricultural property includes land and improvements used in good faith primarily for agricultural purposes. R. 701-71.1(3). Land and nonresidential improvements

> shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest and fruit trees, the rearing, feeding, and management of livestock, or horticulture*,* all for intended profit*.* Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in the subrule.

Id.

We agree with Curnes that the aforementioned classification rules contain no minimum or maximum size requirement for agricultural classification. In applying the classification rules, we look at the unique facts of each case in order to determine the property's primary use and correct classification. Here, the subject property is used as Curnes' residence. Curnes asserts it is also used for hay and is in the monarch conservation program, which should make it agricultural. While the assignment of a farm number is one factor to consider in the analysis, it alone, does not ensure agricultural classification. Similarly, a conservation program contract does not, by itself, demonstrate the present primary use of the property as agricultural. Lastly, no evidence of intent to profit has been supplied.

We find this record lacks sufficient evidence of the property's use, aside from its obvious residential use, to convince us that the subject's present and primary use is agricultural. Curnes' statements on his Appeal form have not been corroborated with any evidence. For example, although Curnes states they pay farm income tax, we have no evidence in the record of the income produced from Curnes' agricultural activities, other than a Conservation Program Contract that projects annual payments of $3,375 to $4,445, depending on funding and compliance with program requirements. Similarly, while Curnes states hay is produced on the subject property, we have no evidence of how many acres are in hay, whether Curnes or someone else harvests the hay, or whether Curnes profits from the hay. There is also no evidence that Curnes have outbuildings, or farm equipment, or what actions they must take to comply with the conservation program contract.

Given the limited evidence provided by Curnes, we conclude that he has not demonstrated his property is primarily used for agricultural purposes with an intent to profit. Rather, we find any agricultural use of the subject property is incidental to its primary use as residential property. Viewing the record as a whole, we find Curnes failed to support his claim that the subject property is misclassified.

Order

PAAB HEREBY AFFIRMS the Dallas County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2021).

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Elizabeth Goodman, Board Member

_____
Dennis Loll, Board Member

_____
Karen Oberman, Board Member

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